

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 326

IN THE MATTER OF:

Served November 8, 1963

Application of Dawson Charter)
Service, Inc., for a Certificate)
of Public Convenience and Necessity)

Application No. 247
Docket No. 44

APPEARANCES:

S. HARRISON KAHN, Attorney for Applicant.

JOHN R. SIMS, JR., HAROLD SMITH, and C. ROBERT SARVER,
Attorneys for D. C. Transit System, Inc., Protestant.

J. G. DAIL, Attorney for Eastern Greyhound Lines,
Division of the Greyhound Corporation, and Airport
Transport, Inc., Protestants.

JULIAN FRERET and BETTY JANE SOUTHARD for Safeway
Trails, Protestant.

EXAMINERS:

LOUIS G. LA VECCHIA, Interstate Commerce Commission.

ROBERT W. PULLY, Washington Metropolitan Area Transit
Commission.

Dawson Charter Service, Inc., filed an application for a Certificate of Public Convenience and Necessity to authorize the transportation of passengers in round trip charter operations from points and places in Montgomery County on, north, and west of the Capital Beltway (Interstate Highway 495) to points and places in Montgomery and Prince Georges County, Maryland, the District of Columbia, and that part of the Commonwealth of Virginia in the Washington Metropolitan Transit District, and return. At the same

time Dawson Charter Service, Inc., (hereinafter sometimes referred to as applicant) filed an application with the Interstate Commerce Commission for authority to operate as a common carrier by motor vehicle over irregular routes transporting passengers and their baggage in round trip, special, and charter party service from points in Montgomery County, Maryland, on, north, and west of the Capital Beltway (Interstate Highway 495) to points in Maryland, the District of Columbia, Virginia, West Virginia, Delaware, Pennsylvania, New York, New Jersey, Ohio, Michigan, South Carolina, and North Carolina, and return.

Counsel for applicant requested this Commission to hear this case jointly with the Interstate Commerce Commission due to the similarity of issues. This Commission, not wishing to impose a burden on the applicant, the public witnesses, or the protestants, concluded that it was in the public interest to hold a joint hearing. Such hearings were held on July 30 and 31, and August 2, 1963, with an examiner from both Commissions sitting.

As this marks the first time in regulatory history that two Commissions have sat jointly on a hearing, with each Commission issuing separate decisions, it is appropriate to allow the record to show certain basic background information concerning the creation of this Commission.

The Washington Metropolitan Area Transit Commission is a governmental agency created by an interstate compact entered into by and between the State of Maryland, the Commonwealth of Virginia and the District of Columbia with the consent of Congress. The Compact was officially signed on December 22, 1960, and pursuant to the terms of the Compact, the Commission came into official existence on March 22, 1961.

In this case neither Commission is affected by the ruling of the other since both operate separately and distinctively. The Washington Metropolitan Area Transit Commission (sometimes hereinafter referred to as WMATC) has jurisdiction over some of the interstate operations applicant requested (Montgomery and Prince Georges Counties, Maryland, District of Columbia, and the Cities of Alexandria and Falls Church, the Counties of Arlington and Fairfax, and that portion of Loudoun County occupied by the Dulles International Airport, Virginia), while the Interstate Commerce Commission holds jurisdiction over the other points proposed to be served by applicant. WMATC also has intrastate jurisdiction in the Counties of Montgomery and Prince Georges, Maryland.

FACTS OF THE CASE

The applicant presented testimony through eleven (11) public witnesses and Mr. Leonard D. Dawson, President and majority stockholder of applicant. These public witnesses were members of groups, organizations, etc., most of whom have used the applicant's service in the past, and some of whom have planned to use the service in the future. They testified as to the importance of cost of transportation and the desirability of having the service in the local area and the favorable service offered by applicant in the past. The growth of Montgomery County was described by three of the public witnesses.

For the past two and one-half years applicant has been engaged in round trip operations in interstate and intrastate service. Some of these intrastate operations fall within the jurisdiction of this Commission.

Applicant also has made numerous interstate trips, most of which have been while under lease to other carriers. Applicant holds no authority from the Interstate Commerce Commission or this Commission. Witness Dawson stated, "We have charter tags and charter permits on our bus that give us the authority to do charter work in the State of Maryland." Applicant further stated that he did not seek authority to sell individual transportation.

Witness Dawson has been engaged in the charter bus business for over twenty years, either as an individual or as majority stockholder of applicant, and at the present time applicant owns three buses. Applicant now operates a regular route scheduled service four nights a week from Silver Spring and from Mt. Rainier to Laurel, all points being in Maryland. Witness Dawson is the principal driver for the applicant.

The eleven public witnesses' testimony stated that the advantages of the service offered by Dawson were: availability of equipment on short notice, low cost of transportation, elimination of deadhead mileage charge, and the pleasure of doing business with someone "locally". In no instance, however, have any of the witnesses contacted all of the protestant carriers authorized to serve in the area to determine relative service or availability of equipment by those carriers.

All of the protestants offer round trip or one way charter trips and hold themselves out to serve that portion of Montgomery County the applicant seeks to serve. These carriers have equipment

available on short notice. From the evidence adduced by protestant, D. C. Transit System, Inc., the Commission is aware of and appreciates the fact that regular route carriers need the supplemental revenue from charter operations to offset expenses arising from the very nature of regular route service.

The main advantage of applicant's service is the low cost of transportation and the fact that no deadhead mileage is charged. In the two and one-half years' operation, the applicant has failed to show a profit even though its principal driver is not being paid for his services.

ISSUES

1. Is the proposed transportation required by public convenience and necessity?

2. Is the applicant, fit, willing, and able to perform such transportation properly and to conform to the provisions of the Compact and the rules, regulations, and requirements of the Commission thereunder?

OPINION

The applicant seeks to perform charter operations which originate in a part of Montgomery County on, north and west of the Capital Beltway and does not seek to originate charter parties in the District of Columbia or that part of the Commonwealth of Virginia embraced in the Washington Metropolitan District. The application is for round trip charter service and does not embrace the right to sell individual fare transportation, and no special operation is intended.

The main advantage of applicant's service is its low rate of charges and the fact that applicant does not charge for deadhead mileage. The Commission has no assurance that this low rate will continue. The applicant may file with the Commission at any time, after a certificate of public convenience and necessity has been granted, a request for a fare increase.

At no point does the record reveal any instances where a certificated carrier has failed to render service to any of the public witnesses who testified in behalf of the applicant. The

applicant has been rendering a charter service in Montgomery and Prince Georges Counties for the past two years and this service is convenient to the organizational groups in these counties.

The Commission is of the opinion and finds that applicant is entitled to a certificate of public convenience and necessity and should be allowed to continue the operations which it was conducting before the Commission came into existence. The Commission finds that applicant is fit and able to operate round trip charter service from that portion of Montgomery County applied for, and the Commission is of the opinion and finds that the public convenience and necessity does, and will in the future, require the applicant to continue its Maryland operations. However, applicant has not shown the need for his service to points in the Metropolitan District other than the Maryland points which are in the Metropolitan District.

Applicant has agreed to the restriction of not transporting any passengers having a prior, subsequent, or intervening movement by air and therefore the Commission will allow Airport Transport, Inc., to withdraw its protest to this application; however, this point is moot in this case due to the limited authority issued to the applicant.

THEREFORE, IT IS ORDERED:

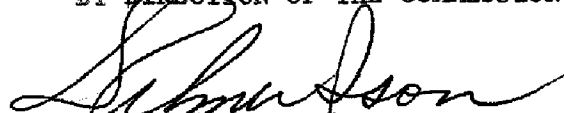
1. That Certificate of Public Convenience and Necessity No. 9, be, and it is hereby, granted to Dawson Charter Service, Inc., to transport passengers for hire as follows:

Irregular Route Charter Operation: Round trip charter party service from points and places in Montgomery County on, north and west of the Capital Beltway (Interstate Highway 495) to points and places in Montgomery and Prince Georges Counties, Maryland, and return.

2. That the authority granted herein shall become effective thirty (30) days from the issuance of this Order, and unless compliance is made by said applicant with the tariff and insurance requirements of the Commission within thirty (30) days after the date of this Order, the granting of authority given in this Order shall be considered as null and void and the application shall stand denied in its entirety effective upon the expiration of the compliance time set forth above.

3. That in all other respects the application be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:


DELMER ISON
Executive Director